MISSISSIPPI LEGISLATURE REGULAR SESSION 2011

By: Representatives Clarke, Mayo, Hines, Broomfield, Brown, Burnett, Calhoun, Clark, Coleman (29th), Coleman (65th), Dedeaux, Evans (70th), Flaggs, Fredericks, Gardner, Gibbs, Harrison, Lane, Smith (27th), Straughter, Thomas

To: Education

HOUSE BILL NO. 999

AN ACT TO AMEND SECTION 37-13-171, MISSISSIPPI CODE OF 1972, TO REQUIRE EACH LOCAL SCHOOL BOARD TO ADOPT A SEX-RELATED EDUCATION POLICY TO IMPLEMENT ABSTINENCE-ONLY OR ABSTINENCE-PLUS EDUCATION INTO ITS LOCAL SCHOOL DISTRICT'S CURRICULUM BY JUNE 30, 2012, OR TO REQUIRE THE LOCAL SCHOOL BOARD TO ADOPT THE PROGRAM DEVELOPED BY THE MISSISSIPPI DEPARTMENT OF HUMAN SERVICES AND THE DEPARTMENT OF HEALTH; TO REQUIRE THE STATE DEPARTMENT TO APPROVE EACH DISTRICT'S CURRICULUM FOR SEX-RELATED EDUCATION AND ESTABLISH A PROTOCOL TO BE USED BY DISTRICTS TO PROVIDE CONTINUITY IN TEACHING THE APPROVED CURRICULUM; TO PROVIDE THAT INSTRUCTION IN SCHOOL DISTRICTS IMPLEMENTING ABSTINENCE-PLUS EDUCATION INTO THE CURRICULUM MAY BE EXPANDED BEYOND THE INSTRUCTION FOR ABSTINENCE-ONLY EDUCATION WITHIN PARAMETERS APPROVED BY THE DEPARTMENT; TO DEFINE ABSTINENCE-PLUS EDUCATION; TO REMOVE THE AUTHORITY GIVEN TO LOCAL SCHOOL BOARDS TO VOTE IN FAVOR OF TEACHING SEX EDUCATION WITHOUT ANY INSTRUCTION ON ABSTINENCE; TO PROHIBIT ANY TEACHING THAT ABORTION CAN BE USED TO PREVENT THE BIRTH OF A BABY; TO REQUIRE BOYS AND GIRLS TO BE SEPARATED INTO DIFFERENT CLASSES BY GENDER AT ALL TIMES WHEN SEX-RELATED EDUCATION IS DISCUSSED OR TAUGHT; TO REQUIRE THE DEPARTMENT OF HUMAN SERVICES AND THE DEPARTMENT OF HEALTH TO DEVELOP CERTAIN PROGRAMS AND STRATEGIES PROMOTING PREGNANCY PREVENTION AND PROVIDING INFORMATION ON THE CONSEQUENCES OF UNPROTECTED, UNINFORMED AND UNDERAGE SEXUAL ACTIVITY; TO PROVIDE FOR THE REPEAL OF THIS SECTION ON JULY 1, 2016; TO AMEND SECTION 37-13-173, MISSISSIPPI CODE OF 1972, TO REQUIRE EACH LOCAL SCHOOL BOARD THAT PROVIDES AN INSTRUCTIONAL PROGRAM IN SEX-RELATED EDUCATION TO ANNUALLY PROVIDE THE PARENTS OR GUARDIANS OF STUDENTS ENROLLED IN THE SCHOOL DISTRICT WITH AN OUTLINE OF THE SEX-RELATED EDUCATION CURRICULUM; TO AMEND SECTION 2, CHAPTER 507, LAWS OF 2009, TO REVISE THE DUTIES OF THE TEEN PREGNANCY TASK FORCE AND TO EXTEND THE DATE OF THE REPEAL ON THE TASK FORCE TO JULY 1, 2016; TO REQUIRE THE STATE DEPARTMENT OF HEALTH AND THE STATE DEPARTMENT OF EDUCATION, SUBJECT TO THE AVAILABILITY OF FUNDS, TO ESTABLISH A PILOT PROGRAM IN EACH HEALTH CARE DISTRICT, TO BE LOCATED IN A SCHOOL DISTRICT IN A COUNTY HAVING THE HIGHEST NUMBER OF TEEN PREGNANCIES; TO REQUIRE THOSE AGENCIES TO PROVIDE CERTAIN EDUCATIONAL SERVICES THROUGH QUALIFIED PERSONNEL; TO REQUIRE THE STATE DEPARTMENT OF HEALTH TO APPLY FOR FEDERAL FUNDS ALLOCATED TO EVIDENCE—BASED TEEN PREGNANCY PREVENTION PROGRAMS THAT COMPLY WITH REQUIREMENTS OF THE FEDERAL PERSONAL RESPONSIBILITY EDUCATION PROGRAM; TO PRESCRIBE THE REQUIREMENTS THAT MUST BE MET BY TEEN PREGNANCY PREVENTION PROGRAMS TO BE ELIGIBLE FOR FUNDING; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 37-13-171, Mississippi Code of 1972, is amended as follows:

37-13-171. (1) The local school board of every public school district shall adopt a policy to implement abstinence-only or abstinence-plus education into its curriculum by December 31, 2011, which instruction in those subjects shall be implemented not later than the start of the 2012-2013 school year or the local school board shall adopt the program which has been developed by the Mississippi Department of Human Services and the Mississippi Department of Health. The State Department of Education shall approve each district's curriculum for sex-related education and shall establish a protocol to be used by districts to provide continuity in teaching the approved curriculum in a manner that is age, grade and developmentally appropriate.

(2) Abstinence-only education shall remain the state standard for any sex-related education taught in the public schools. However, in any school district in which the local school board chooses the option to implement abstinence-plus education into its curriculum for sex-related education, that instruction may be expanded beyond the instruction given for abstinence-only education within the parameters approved by the department. For purposes of this section, abstinence-only education includes any type of instruction or program which, at an appropriate age and grade:

(a) Teaches the social, psychological and health gains to be realized by abstaining from sexual activity, and the likely negative psychological and physical effects of not abstaining;

(b) Teaches the harmful consequences to the child, the child's parents and society that bearing children out of wedlock is likely to produce, including the health, educational, financial and other difficulties the child and his or her parents are likely to face, as well as the inappropriateness of the social and economic burden placed on others;

(c) Teaches that unwanted sexual advances are irresponsible and teaches how to reject sexual advances and how alcohol and drug use increases vulnerability to sexual advances;

(d) Teaches that abstinence from sexual activity before marriage, and fidelity within marriage, is the only certain way to avoid out-of-wedlock pregnancy, sexually-transmitted diseases and related health problems. The instruction or program may include a discussion on contraceptives, but only if that discussion includes a factual presentation of the risks * * * of those contraceptives. In no case shall the instruction or program include any demonstration of how condoms or other contraceptives are applied;

(e) Teaches the current state law related to sexual conduct, including forcible rape, statutory rape, paternity establishment, child support and homosexual activity; * * *

(f) Teaches that a mutually faithful, monogamous relationship in the context of marriage is the only appropriate setting for sexual intercourse;

(g) Teaches methods for developing healthy life skills, including setting goals, making responsible decisions, communicating and managing stress; and

(h) Teaches the impact of media and one's peers on thoughts, feelings and behaviors related to sexuality.

(3) A program or instruction on sex-related education need not include every component listed in subsection (2) of this section for abstinence-only education. However, no program or instruction under an abstinence-only curriculum may include anything that contradicts the excluded components. In any school district approving an abstinence-plus curriculum, the scope of instruction may be expanded. For purposes of this section, abstinence-plus education includes every component listed under subsection (2) of this section that is age and grade appropriate, in addition to any other programmatic or instructional component approved by the department, which shall include, but not be

limited to, instruction and demonstrations on the application and use of condoms or other contraceptives, the nature, causes and effects of sexually transmitted diseases, or the prevention of sexually transmitted diseases, including HIV/AIDS.

(4) Any course containing sex-related education offered in the public schools shall include instruction in either abstinence-only or abstinence-plus education. The instruction provided through sex-related education shall be medically accurate, developmentally and age-appropriate. For purposes of this act:

(a) The term "medically accurate" means supported by peer-reviewed research conducted in compliance with accepted scientific methods, and recognized as accurate and objective by leading medical, psychological, psychiatric and public health organizations and agencies, and, where relevant, published in peer-reviewed journals.

(b) The term "age—appropriate" means suitable to a particular age group of students based on the developing cognitive and emotional capacity of and behaviors typical for the age group.

(5) Local school districts, in their discretion, may host programs designed to teach parents how to discuss abstinence with their children.

(6) There shall be no effort in either an abstinence-only or an abstinence-plus curriculum to teach that abortion can be used to prevent the birth of a baby.

(7) At all times when sex-related education is discussed or taught, boys and girls shall be separated according to gender into different classrooms, sex-related education instruction may not be conducted when boys and girls are in the company of any students of the opposite gender.

(8) This section shall stand repealed on July 1, 2016.

SECTION 2. (1) The Mississippi Department of Human Services shall develop programs to accomplish the purpose of one or more of the following strategies:

(a) Promoting effective communication among families about preventing teen pregnancy, particularly communication among parents or guardians and their children;

(b) Educating community members about the consequences of unprotected, uninformed and under age sexual activity and teen pregnancy;

(c) Encouraging young people to postpone sexual activity and prepare for a healthy, successful adulthood, including teaching them skills to avoid making or receiving unwanted verbal, physical, and sexual advances;

(d) Providing medically accurate information about the health benefits and side effects of all contraceptives and barrier methods as a means to prevent pregnancy and reduce the risk of contracting sexually transmitted infections, including HIV/AIDS; or

(e) Providing educational information, including medically accurate information about the health benefits and side effects of all contraceptives and barrier methods, for young people in those communities who are already sexually active or are at risk of becoming sexually active and inform young people in those communities about the responsibilities and consequences of being a parent, and how early pregnancy and parenthood can interfere with educational and other goals.

(2) The State Department of Health shall develop programs with the following strategies:

(a) To carry out activities, including counseling, to prevent unintended pregnancy and sexually transmitted infections, including HIV/AIDS, among teens;

(b) To provide necessary social and cultural support services regarding teen pregnancy;

(c) To provide health and educational services related to the prevention of unintended pregnancy and sexually transmitted infections, including HIV/AIDS, among teens;

(d) To promote better health and educational outcomes among pregnant teens;

(e) To provide training for individuals who plan to work in school-based support programs regarding the prevention of unintended pregnancy and sexually transmitted infections, including HIV/AIDS, among teens;

(f) To encourage all school boards to ensure that students in their districts are provided age—appropriate instruction in sex-related education; and

(g) To support and enhance communication between students and their parents and provide students with the knowledge, skills and support necessary to make healthy decisions now and throughout their lifetimes and to make responsible decisions about sexual behavior.

(3) It shall be the responsibility of school nurses employed by local school districts implementing the program developed by the State Department of Health under subsection (2) of this section to carry out the functions of those strategies to promote consistency in the administration of the program.

SECTION 3. Section 37-13-173, Mississippi Code of 1972, is amended as follows:

37-13-173. (1) Each school providing instruction or any other presentation on human sexuality in the classroom, assembly or other official setting shall be required to provide no less than one (1) week's written notice thereof to the parents of children in such programs of instruction. The written notice must inform the parents of their right to request the exclusion of their child from such instruction or presentation. The notice also must inform the parents of the right, and the appropriate process, to review the curriculum and all materials to be used in

the lesson or presentation. Upon the request of any parent, the school shall excuse the parent's child from such instruction or presentation, without detriment to the student.

(2) Each local school board that provides an instructional program in sex-related education annually shall provide the parents or guardians of each student enrolled in the school district with an outline of the sex-related education curriculum used in the student's grade level and information regarding how the parent or guardian may inspect the complete curriculum and instructional materials. The school board shall make the complete sex-related education curriculum and all instructional materials available for inspection by a parent or guardian upon his or her request before their use in the classroom. By September 30 of each school year, beginning with the 2012-2013 school year, a school board that elects not to provide an instructional program in sex-related education under this act shall send home to the parent or guardian of each student enrolled in the school district a notice that includes:

(a) A statement that the local school board is authorized to provide instruction in sex-related education to students enrolled in the school district;

(b) The subjects of instruction required under subsection (2) of Section 1 of this act if the local school board were to provide instruction in sex-related education; and

(c) A statement that the local school board is opting not to provide any instruction in sex-related education to students enrolled in the school district.

SECTION 4. Section 2, Chapter 507, Laws of 2009, is amended as follows:

Section 2. (1) There is created the Teen Pregnancy Monitoring Task Force to study and make recommendation to the Legislature on the implementation of sex-related educational courses through abstinence-only or abstinence-plus education into

the curriculum of local school districts and the coordination of services by certain state agencies to reduce teen pregnancy and provide prenatal and postnatal training to expectant teen parents in Mississippi. The task force shall make an annual report of its findings and recommendations to the Legislature beginning with the 2012 Regular Session.

(2) The task force shall be composed of the following sixteen (16) members:

(a) The Chairmen of the Senate and House Public Health and Welfare Committees, or their designees;

(b) The Chairmen of the Senate and House Education Committees, or their designees;

(c) The Chairman of the House Select Committee on Poverty;

(d) One (1) member of the Senate appointed by the Lieutenant Governor;

(e) The Executive Director of the Department of Human Services, or his or her designee;

(f) The State Health Officer, or his or her designee;

(g) The State Superintendent of Public Education, or his or her designee;

(h) The Executive Director of the Division of Medicaid, or his or her designee;

(i) The Executive Director of the State Department of Mental Health, or his or her designee;

(j) The Vice Chancellor for Health Affairs and Dean of the University of Mississippi Medical Center School of Medicine, or his or her designee;

(k) Two (2) representatives of the private health or social services sector appointed by the Governor;

(l) One (1) representative of the private health or social services sector appointed by the Lieutenant Governor; and

(m) One (1) representative of the private health or social services sector appointed by the Speaker of the House of Representatives.

(3) Appointments shall be made within thirty (30) days after the effective date of this act, and, within fifteen (15) days thereafter on a day to be designated jointly by the Speaker of the House and the Lieutenant Governor, the task force shall meet and organize by selecting from its membership a chairman and a vice chairman. The vice chairman shall also serve as secretary and shall be responsible for keeping all records of the task force. A majority of the members of the task force shall constitute a quorum. In the selection of its officers and the adoption of rules, resolutions and reports, an affirmative vote of a majority of the task force shall be required. All members shall be notified in writing of all meetings, the notices to be mailed at least fifteen (15) days before the date on which a meeting is to be held. If a vacancy occurs on the task force, the vacancy shall be filled in the manner that the original appointment was made.

(4) Members of the task force who are not legislators, state officials or state employees shall be compensated at the per diem rate authorized by Section 25-3-69 and shall be reimbursed in accordance with Section 25-3-41 for mileage and actual expenses incurred in the performance of their duties. Legislative members of the task force shall be paid from the contingent expense funds of their respective houses in the same manner as provided for committee meetings when the Legislature is not in session. However, no per diem or expense for attending meetings of the task force may be paid to legislative members of the task force while the Legislature is in session. No task force member may incur per diem, travel or other expenses unless previously authorized by vote, at a meeting of the task force, which action shall be recorded in the official minutes of the meeting. Nonlegislative

members shall be paid from any funds made available to the task force for that purpose.

(5) The task force shall use clerical and legal staff already employed by the Legislature and any other staff assistance made available to it by the Department of Health, the Mississippi Department of Human Services, the Department of Mental Health, the State Department of Education and the Division of Medicaid. To effectuate the purposes of this section, any department, division, board, bureau, commission or agency of the state or of any political subdivision thereof shall, at the request of the chairman of the task force, provide to the task force such facilities, assistance and data as will enable the task force properly to carry out its duties.

(6) In order to carry out the functions and responsibilities necessary to study and make recommendations to the Legislature, the Teen Pregnancy Monitoring Task Force shall:

(a) Form task force subgroups based on specific areas of expertise;

(b) Review and consider coordinated services and plans and related studies done by or through existing state agencies and advisory, policy or research organizations to reduce teen pregnancy and provide the necessary prenatal and postnatal training to expectant teen parents;

(c) Review and consider statewide and regional planning initiatives related to teen pregnancy;

(d) Consider efforts of stakeholder groups to comply with federal requirements for coordinated planning and service delivery; * * *

(e) Evaluate the implementation of sex-related educational courses through abstinence-only or abstinence-plus education in local school districts throughout the state;

(f) Evaluate the effect of the adoption of a required sex education policy on teen pregnancy rates and dropout rates due

to teen pregnancy on the local school district and statewide levels;

(g) Compare and analyze data in districts adopting and implementing abstinence-only education to districts adopting abstinence-plus education;

(h) Require the Department of Health, the Mississippi Department of Human Services, the Department of Mental Health, the State Department of Education and the Division of Medicaid to conduct a study of community programs available throughout the state, and the areas wherein they are located, which provide programs of instruction on sexual behavior and assistance to teen parents; and

(i) Work through the Department of Health, the Mississippi Department of Human Services, the Department of Mental Health, the State Department of Education and the Division of Medicaid to cause any studies, assessments and analyses to be conducted as may be deemed necessary by the task force.

(7) This section shall stand repealed on July 1, 2016.

SECTION 5. (1) Beginning with the 2012-2013 school year, to the extent that federal or state funds are available and appropriated by the Legislature for the purposes of establishing and implementing the Prevention of Teen Pregnancy Pilot Program authorized by Section 41-79-5, the State Department of Health in conjunction with the State Department of Education shall establish a pilot program in each of the nine (9) Health Districts as defined by the State Department of Health, to be located in a school district in a county in that district having the highest number of teen pregnancies.

(2) The State Department of Health and the State Department of Education shall jointly provide education services through qualified personnel to increase awareness of the health, social and economic risks associated with teen pregnancy. The services

and curriculum provided shall have a primary emphasis on reducing the teenage pregnancy rate in those pilot districts.

(3) (a) The State Department of Health shall apply for federal funds allocated to evidence—based teen pregnancy prevention programs that have been proven through rigorous evaluation to delay sexual activity, increase contraceptive use and reduce teen pregnancy in order to implement such a program through compliance with the federal Personal Responsibility Education Program.

(b) For purposes of this section, the term "personal responsibility education program" means a program that is designed, at a minimum, to educate adolescents on:

(i) Abstinence and contraception for the prevention of pregnancy and sexually transmitted infections, including HIV/AIDS, consistent with the requirements of paragraph (c) of this subsection; and

(ii) At least three (3) of the adulthood preparation subjects described in paragraph (d) of this subsection.

(c) To meet the requirements of the federal Personal Responsibility Education Program, a teen pregnancy prevention program must:

(i) Replicate evidence-based effective programs or substantially incorporate elements of effective programs that have been proven on the basis of rigorous scientific research to change behavior, which means delaying sexual activity, increasing condom or contraceptive use for sexually active youth, or reducing pregnancy among youth;

(ii) Be medically accurate and complete, as defined in Section 1 of this act;

(iii) Include activities to educate youth who are sexually active regarding responsible sexual behavior with respect to both abstinence and the use of contraception;

(iv) Place substantial emphasis on both abstinence and contraception for the prevention of pregnancy among youth and sexually transmitted infections;

(v) Provide age—appropriate information and activities, as defined in Section 1 of this act; and

(vi) Provide information and activities to be carried out under the teen pregnancy prevention program in the cultural context that is most appropriate for individuals in the particular population group to which they are directed.

(d) Adulthood preparation subjects shall include:

(i) Healthy relationships, such as positive self-esteem and relationship dynamics, friendships, dating, romantic involvement, marriage and family interactions;

(ii) Adolescent development, such as the development of healthy attitudes and values about adolescent growth and development, body image, racial and ethnic diversity and other related subjects;

(iii) Financial literacy;

(iv) Parent—child communication;

(v) Educational and career success, such as developing skills for employment preparation, job seeking, independent living, financial self—sufficiency and work—place productivity; and

(vi) Health life skills, such as goal-setting, decision-making, negotiation, communication and interpersonal skills and stress management.

SECTION 6. This act shall take effect and be in force from and after July 1, 2011.